

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of)	
)	
Promoting Efficient Use of Spectrum)	WT Docket No. 00-230
Through Elimination of Barriers to the)	
Development of Secondary Markets)	

**COMMENTS OF
THE
AMERICAN MOBILE TELECOMMUNICATIONS ASSOCIATION**

To: The Commission

The American Mobile Telecommunications Association, Inc. (“AMTA” or “Association”), by its attorneys and in accordance with Section 1.415 of the Federal Communications Commission (“FCC” or “Commission”) rules and regulations, respectfully submits its comments in the above-entitled proceeding.¹ AMTA applauds the FCC’s efforts to promote the development of secondary markets. The rules established by the Commission in the Report and Order are another important step in facilitating the efficient use of spectrum and provide many licensees with additional flexibility to tailor their business strategies. AMTA urges the Commission to extend the established spectrum leasing rights to the Automated Maritime Telecommunications Systems (“AMTS”) service. In support thereof, the following is provided.

¹ “In the Matter of Promoting Efficient Use of Spectrum Through Elimination of Barriers to the Development of Secondary Markets,” WT Docket No. 00-230, *Report and Order and Further Notice of Proposed Rulemaking*, FCC 03-113 (rel. Oct. 6, 2003)(“Spectrum Leasing Report and Order” and “Spectrum Leasing Further Notice”).

I. INTRODUCTION

AMTA is a nationwide, non-profit trade association dedicated to the interests of the specialized wireless communications industry. The Association's members include trunked and conventional 800 MHz and 900 MHz Specialized Mobile Radio ("SMR") operators, and commercial licensees in the 220 MHz and 450-512 MHz bands. Many of AMTA's members are Commercial Radio Service Providers ("CMRS") and are authorized to provide land-based as well as maritime service. Collectively AMTA's members provide commercial wireless services to millions of end user subscribers. Accordingly, AMTA's members have an interest in the outcome of this proceeding.

II. DISCUSSION

By the Spectrum Leasing Report and Order, the FCC removed unnecessary regulatory barriers to the development of secondary markets in spectrum usage rights. Specifically, it streamlined the ability of spectrum users to gain access to licensed spectrum by entering into leasing arrangements that are suited to the parties' respective needs. It implemented two different options for spectrum leasing. One option enables licensees and "spectrum lessees" to enter into arrangements without the need for FCC approval so long as the licensee retains *de facto* control of the leased spectrum under the newly refined standard. The other option permits parties to enter into arrangements in which the licensee transfers *de facto* control to the lessee pursuant to streamlined approval procedures.

The Commission extended this new leasing policy to most Wireless Radio Services in which licensees hold exclusive rights to use the licensed spectrum.² By the Spectrum Leasing Further Notice, the FCC invited comment as to whether it should extend the new rules to

² Spectrum Leasing Report and Order at ¶¶84-85.

additional radio services.³ Among the radio services it specifically sought comment on was AMTS.⁴

AMTA urges the Commission to extend the new spectrum leasing rules to AMTS. AMTS stations provide automated, integrated, interconnected ship-to-shore communications similar to a cellular phone system for tugs, barges, and other maritime vessels. In recent years the FCC has pro-actively modified many aspects of the AMTS rules.⁵ This spectrum has been made available in areas other than those capable of serving the nation's waterways, and the FCC has taken effective steps to permit its more flexible use. As noted by the Commission, the FCC now uses a variety of methods to license the spectrum in this service, including site-based licensing and geographic area licensing.

Accordingly, the nature of the authorizations issued to the AMTS service is not dissimilar to other services that are among those encompassed by the new leasing rights.⁶ Consistent with its obligation to promote regulatory symmetry among CMRS service providers,⁷ AMTA submits the FCC should extend spectrum-leasing rights to AMTS.

Providing leasing flexibility to AMTS licensees will encourage efficiency by providing these licensees with a way to divest themselves of spectrum that may be more efficiently and

³ Spectrum Leasing Further Notice at ¶¶ 289-314.

⁴ *Id.* at ¶ 299, n.495.

⁵ See, e.g., *Third Report and Order and Memorandum Opinion and Order*, PR Docket No. 92-257, 13 FCC Rcd 19853 (1998); *Fourth Report and Order and Third Notice of Proposed Rulemaking*, PR Docket No. 92-257, 15 FCC Rcd 22585 (2000) and *Second Memorandum Opinion and Order and Fifth Report and Order*, PR Docket No. 92-257, 17 FCC Rcd 6685 (2002).

⁶ Spectrum Leasing Report and Order at ¶ 84, n.181.

⁷ "Implementation of Sections 3(n) and 332 of the Communications Act, Regulatory Treatment of Mobile Services," *Notice of Proposed Rulemaking*, GN Docket No. 93-252, 8 FCC Rcd 7988 (1993); *First Report and Order*, 9 FCC Rcd 1056 (1994); *Second Report and Order*, 9 FCC Rcd 1411 (1994); *Third Report and Order*, 12 FCC Rcd 10943 (1997); *Memorandum Opinion and*

profitably used by another entity or, conversely, to acquire additional increments of spectrum that their technology and customers may require. It will increase competition in the provision of telecommunications services, promote more efficient use of maritime spectrum, increase the types of telecommunications services available to vessel operators, allow maritime CMRS providers to respond more quickly to market demand, and reduce regulatory burdens on AMTS station licensees. Giving licensees more flexibility in the use of maritime spectrum will serve the public interest.

II. CONCLUSION

For the reasons described herein, AMTA urges the Commission to proceed expeditiously to amend its rules to include AMTS among the services encompassed under the newly adopted spectrum leasing procedures.

Respectfully submitted,

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December 5, 2003

Order on Reconsideration, 13 FCC Rcd 14569 (1998); *Fifth Report and Order*, 13 FCC Rcd 24615 (1998).